

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MAINE**

**BAYCHAR, INC., ET AL.,**

**PLAINTIFFS**

**v.**

**THE BURTON CORPORATION,  
ET AL.,**

## DEFENDANTS

**CIVIL No. 04-144-B-H**

## ORDER ON PLAINTIFFS' MOTION FOR RELIEF FROM JUDGMENT

In this case, the Magistrate Judge and the District Judge ruled favorably on the defendants' motions for summary judgment on the plaintiffs' claims. The defendants' motions for summary judgment, however, did not address certain counterclaims. Nordica USA Corp.'s Answer & Countercl. (Docket Item 26). As a result, the Orders of both the Magistrate Judge and the District Judge did not rule on the counterclaims. Nevertheless, the Clerk's Office incorrectly entered judgment on November 6, 2006, in the defendants' favor on the entire case, *i.e.*, including Nordica's counterclaims. The parties agreed to a dismissal of the plaintiffs' appeal to the Federal Circuit on the basis that the judgment was not final. Plainly, the judgment on the counterclaims must be **VACATED** under Fed. R. Civ. P. 60(a).

The plaintiffs' motion for relief from judgment from the counterclaims is  
**GRANTED.**

**So ORDERED.**

**DATED THIS 19TH DAY OF JUNE, 2007**

/s/D. BROCK HORNBY  
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**D. BROCK HORNBY**  
**UNITED STATES DISTRICT JUDGE**